

STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS
September 17, 2012
Minutes
Indiana Government Center-South
402 West Washington Street, Room W064
Indianapolis, Indiana

COMMITTEE MEETINGS

10:00 a.m.

CALL TO ORDER & ESTABLISHMENT OF QUORUM

D. Demuth called the meeting to order at 1:00 p.m. and established a quorum pursuant to public notice posted at the principal office of the board at least forty-eight (48) hours before the time of the meeting

Board Members Present:

David Demuth, President
Diane Weisheit, Vice President
Diana Bonn
Rebecca Bushong
Gary Odell

Board Member Not Present:

Joseph Barsic

State Officials Present:

Tracy Hicks, Board Director, Indiana Professional Licensing Agency
Rae Harman, Assistant Director, Indiana Professional Licensing Agency
Philip Thompson, Board Advisory Counsel, Office of the Attorney General

ADOPTION OF THE AGENDA

The September 17, 2012 agenda was adopted as amended.

Weisheit/ Bonn
7/0/0
Motion carried.

ADOPTION OF THE MINUTES FROM THE JULY 16, 2012 MEETING OF THE STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS

A motion was made and seconded to approve the minutes as amended of the July 16, 2012 meeting.

Weisheit/O'Dell
5/0/0
Motion carried.

OLD/NEW BUSINESS

A. Administrative Hearings, 1:00 p.m.

1. Order to Show Cause in the Matter of Tuan Quoc Phan, SBCBE 12-45

A motion was made and seconded to issue a second Notice of Proposed Default due to failure to appear.

Weisheit/Bushong
5/0/0
Motion carried.

2. Administrative Hearing in the Matter of Diamond Nails and Spa, MS30903196, SBCBE 12-12

Hearing was held. A motion was made and seconded to find Respondent in default.

Weisheit/Bushong

5/0/0

Motion carried.

A motion was made and seconded that the State has proved their case, and to suspend the license indefinitely with no right to petition for reinstatement for a period of six months, impose a fine of \$1000 for each of the seven counts for a total of \$7000 to be paid within six months from the date of the order, impose costs of the proceedings, and impose the \$5 AG fee.

Bonn/Weisheit

5/0/0

Motion carried.

3. Administrative Hearing in the Matter of Lovely Nails, MS30200512, SBCBE 12-20

Hearing was held. A motion was made and seconded to find Respondent in default

Weisheit/Bushong

5/0/0

Motion carried.

A motion was made and seconded that the State has proved their case, and to place the license on probation indefinitely with no right to petition for reinstatement for a period of one year, impose a fine of \$1000 to be paid within six months from the date of the order, impose costs of the proceedings, and impose the \$5 AG fee.

Bonn/Weisheit

5/0/0

Motion carried.

4. Administrative Hearing in the Matter of Truong C. Vu, MA20703858, SBCBE 12-56

A hearing was held. A motion was made and seconded that the State has proved their case, and to revoke the license, impose a fine of \$2000 to be paid within seven years from the date of the order, impose costs of the proceedings, and impose the \$5 AG fee.

Weisheit/Bonn

5/0/0

Motion carried.

5. Administrative Hearing in the Matter of David Morris, BA10900140, SBCBE 12-63

A motion was made and seconded to issue a notice of proposed default.

Weisheit/bonn

5/0/0

Motion carried.

6. Administrative Hearing in the Matter of Kenneth W. Floyd, Jr., BA10800034, SBCBE 12-64

A motion was made and seconded to issue a notice of proposed default.

Weisheit/Bushong

5/0/0

Motion carried.

7. Administrative Hearing in the Matter of Lovely Nails, MS30600511, SBCBE 12-65, **CONTINUED**

8. Administrative Hearing in the Matter of Crystal R. Davenport, BC20200580, SBCBE 12-69

A motion was made and seconded that the State has proved their case, and to place the license on probation indefinitely with no right to petition for reinstatement for a period of one year after the license is renewed, impose a fine of \$50 to be paid within six months from the date of the order, impose costs of the proceedings, and impose the \$5 AG fee.

Bonn/Weisheit
5/0/0
Motion carried.

9. Administrative Hearing in the Matter of Timothy Shelby, BA10000220, SBCBE 12-70

A motion was made and seconded to issue a notice of proposed default.

Weisheit/Bushong
5/0/0
Motion carried.

10. Administrative Hearing in the Matter of Kimberly A. Owings, BC08900841, SBCBE 12-77

A motion was made and seconded to issue a notice of proposed default.

Weisheit/Bonn
5/0/0
Motion carried.

11. Administrative Hearing in the Matter of Rebecca Sue Fry, BC08606072, SBCBE 12-79

A motion was made and seconded to issue a notice of proposed default.

Weisheit/Bonn
5/0/0
Motion carried.

12. Administrative Hearing in the Matter of A Cut Above, BS89000764, SBCBE 12-80

A motion was made and seconded to issue a notice of proposed default.

Weisheit/Bushong
5/0/0
Motion carried.

13. Administrative Hearing in the Matter of Christina M. Johnson, SBCBE 08-39

A hearing was held. A motion was made and seconded to withdraw probation.

Bonn/Bushong
5/0/0
Motion carried.

14. Administrative Hearing in the Matter of Wilson H. Lorick, II, BA08600076, SBCBE 10-49

A hearing was held. A motion was made and seconded to withdraw probation.

Bonn/Bushong
5/0/0
Motion carried.

15. Administrative Hearing in the Matter of Ronnie L. Whiteside, Sr., SBBE 09-16

A motion was made and seconded to issue a notice of proposed dismissal.

Weisheit/O'Dell
5/0/0
Motion carried.

16. Administrative Hearing in the Matter of Norma E. Roth, SBCBE 12-76

A motion was made and seconded to grant a provisional cosmetology license. D. Bonn and D. Weisheit objected.

Bushong/O'Dell
3/2/0
Motion carried.

B. Office of the Attorney General Consumer Protection Division Report

C. Personal Appearances for Disciplinary Compliance

1. Hoang M. Do, MA20300511, SBCBE 07-55 - Failed to Appear
2. Lovely Nails, MS30600511, SBCBE 08-27 – Appeared
3. Nail Expo, MS30500736, SBCBE 08-17 - Appeared
4. Avis Nails, MS39600693, SBCBE 12-13 - Appeared

D. Personal Appearances and Consideration of Application for License Renewal

1. Sara Ackerman, BC20807208

A motion was made and seconded to approve the application for renewal upon receipt of documentation indicating criminal probation is complete.

Weisheit/Bonn
5/0/0
Motion carried.

2. Lindsey Dyer Allen, BC2001744

A motion was made and seconded to approve the application for renewal.

Bonn/O'Dell
5/0/0
Motion carried.

3. Richard Bevelle Jr., BA10800130

A motion was made and seconded to approved the application for renewal upon receipt of documentation indicating criminal probation is complete.

Bonn/Weisheit
5/0/0
Motion carried.

4. Krystie Burmylo, BC20808060

A motion was made and seconded to deny the application for renewal due to failure to appear.

Bonn/Weisheit
5/0/0
Motion carried.

5. Jeffrey Dean Campbell, BA10800164

A motion was made and seconded to approved the application for renewal on indefinite probation with no right to petition for withdraw of probation until released from criminal probation.

Weisheit/O'Dell
5/0/0
Motion carried.

6. Rachel Cusack, ES29700589

A motion was made and seconded to approve the application for renewal.

Bonn/Bushong
5/0/0
Motion carried.

7. Gina Dattilo, BC08811970

A motion was made and seconded to approved the application for renewal on indefinite probation with no right to petition for withdraw of probation until released from criminal probation.

Bonn/Bushong
5/0/0
Motion carried.

8. Amy Lynn Denno, BC09200258

A motion was made and seconded to approved the application for renewal on indefinite probation with no right to petition for withdraw of probation until released from criminal probation.

Bonn/Bushong
5/0/0
Motion carried.

9. Ryan Frazier, BC20401222

A motion was made and seconded to approve the application for renewal. D. Weisheit opposed.

Bushong/O'Dell
4/1/0
Motion carried

10. Julie An Gamble, BC02305820

A motion was made and seconded to approve the application for renewal upon passing the written examination.

Weisheit/Bonn
5/0/0
Motion carried

11. Arin Garriott, ES20704034

A motion was made and seconded to approve the application for renewal. R. Bushong abstained.

Bonn/Weisheit
4/0/1
Motion carried

12. Sheri Horn, BC29601550

A motion was made and seconded to approve the application for renewal.

Bonn/O'Dell
5/0/0
Motion carried

13. Linda King, BC02386244

A motion was made and seconded to deny the application for renewal due to failure to appear.

Weisheit/Bonn
5/0/0
Motion carried.

14. Stacie Lee, BC02372093

A motion was made and seconded to approved the application for renewal on indefinite probation with no right to petition for withdraw of probation until released from criminal probation. D. Weisheit opposed.

Bonn/Bushong
4/1/0
Motion carried.

15. Michael Paige, BA10800108 & BI10900074

A motion was made and seconded to approved the application for renewal on indefinite probation with no right to petition for withdraw of probation until released from criminal probation.

Bonn/O'Dell
5/0/0
Motion carried.

16. Susanna Reeder, BC20402427

A motion was made and seconded to approve the application for renewal. D. Bonn opposed.

Bushong/O'Dell
4/1/0
Motion carried

17. Kenneth Shelton, BC02344494

A motion was made and seconded to approve the application for renewal upon passing the written examination. D. Weisheit opposed.

Bonn/O'Dell
4/1/0
Motion carried

18. Roger's Barber Shop, BS20400144

A motion was made and seconded to approve the application for renewal.

O'Dell/Bushong
5/0/0
Motion carried

19. Pine Square Hair Design, BS39700161

A motion was made and seconded to approve the application for renewal.

Weisheitl/Bushong
5/0/0
Motion carried

20. Studio 327 Hair Design, BS89200493

A motion was made and seconded to approve the application for renewal.

Weisheit/O'Dell
5/0/0
Motion carried

E. LSA Document #12-383, Readoption of Rules; 820 IAC 7-1-2, Examination Fees

A motion was made and seconded to approve LSA Document #12-383

Bushong/Bonn
5/0/0
Motion carried

F. Consideration of Proposed Findings of Fact, Conclusions of Law, and Order

1. Zelda Lewis, BC02325981, SBCBE 12-38

A motion was made and seconded to approve the Proposed Findings of Fact, Conclusions of Law, and Order.

Weisheit/O'Dell
5/0/0
Motion carried

G. Consideration of Administrative Law Judge's Notice of Proposed Dismissal Order and Objection

1. Regal Nails, SBCBE 12-60

A motion was made and seconded to issue a Dismissal Order.

Weisheit/Bonn
5/0/0
Motion carried

2. Hot Nails, SBCBE 12-61

A motion was made and seconded to issue a Dismissal Order.

Weisheit/Bonn
5/0/0
Motion carried

H. Consideration of Administrative Law Judge's Order

1. Valarie Shafer Dunworth, SBCBE 12-59

A motion was made and seconded to affirm the Administrative Law Judge's Order.

Weisheit/Bushong
5/0/0
Motion carried

2. Mary Beth Haire, SBCBE 12-62

A motion was made and seconded to affirm the Administrative Law Judge's Order.

Weisheit/Bushong
5/0/0
Motion carried

I. Provisional Licensee Requesting Issuance of a Non-Provisional License

1. Silvia Castaneda

A motion was made and seconded to table the application pending a personal appearance to explain practicing prior to issuance of a license. G. O'Dell was not present at the time of this motion.

Bushong/Bonn
4/0/1
Motion carried

2. Denis Henriquez

A motion was made and seconded to table the application pending a personal appearance to explain practicing prior to issuance of a license. G. O'Dell was not present at the time of this motion.

Bushong/Bonn
4/0/1
Motion carried

J. Discussion with Sid McCreary, Ravenscroft Beauty College, Regarding the Progress of His New Cosmetology School.

A motion was made and seconded to approve the lockers in the common area of the school building and allow the accordion door between the classroom & common area.

Bushong/Bonn
5/0/0
Motion carried

K. Discussion of Possible Policy Changes

1. Considering Timely Petitions as Automatically Granted Rather than Having to Grant Each Petition Individually to Increase the Timeliness of the Administrative Appeal Process.

A motion was made and seconded to approve this as board policy.

Bonn/Weisheit
5/0/0
Motion carried

2. Appointing Multiple Board Members as Rotating Administrative Law Judges

A motion was made and seconded to approve this as board policy.

Bonn/Bushong
5/0/0
Motion carried

3. Considering Apprentice Training Obtained in States as Experience When Considering Reciprocity Applications.

It was the decision of the board to table this matter.

4. Issuing Salons on Probation Rather Than Denying For Violations that are Consistent With Those that are Approved on Probation after the Administrative Appeal Process.

It was the decision of the board to table this matter.

L. Discussion of Electronic School Progress Records - What does the board consider timely for recording progress.

The board did not come to a consensus.

M. It is the consensus of the board that students in a cosmetology schools cannot wear open toe shoes while obtaining education hours from the cosmetology school.

N. Compliance made the board aware that some schools are not following the rules regarding recording progress according to the rules.

V. CONSIDERATION OF REQUESTS FOR WAIVER AND TRANSFERS

A. Request for Waiver of 820 IAC 4-1-5(d), Completion of Education Within Three Years Of Enrollment

1. Kiera Afzal
2. Kylie J. Christy
3. Anriana Coleski
4. Vanessa Garcia
5. Courtney Morrow
6. Jerema Whiteman

A motion was made and seconded to approve all and allow one year to graduate.

Weisheit/Bonn
5/0/0
Motion carried

B. Request for Waiver of 820 IAC 2-2-3(b), Sitting for Examination Within One Year of Graduation

1. Genesis Castillo
2. Elizabeth Cotton
3. Medina Daniels
4. Van Do
5. Leah Renae Kerr
6. Kayla Knight
7. Christa Matthews
8. Dominique LaChe' McGordon
9. Natalie Ruckel
10. Carmanique Walton
11. Brianna Washington
12. Aubrey Peck

A motion was made and seconded to approve all and allow six months to sit for the examination.

Weisheit/Bonn
5/0/0
Motion carried

C. Request for Waiver of 820 IAC 8-2-20 or 820 IAC 8-2-20, Passing the Examination Within Three Years Of Graduation

1. Heather Benz
2. Dana Bowers
3. Jennifer Dowling
4. Farrell Edwards
5. Christy Goodman
6. Wesley Johnson

7. Shentoia McGowan

A motion was made and seconded to approve all and allow six months to pass the examination.

Weisheit/Bonn
5/0/0
Motion carried

8. Zin Oo

A motion was made and seconded to approve and allow one year to pass the examination.

Weisheit/Bonn
5/0/0
Motion carried

D. Request for Waiver of 820 IAC 2-2-3(b), Sitting for Examination Within One Year and Passing the Examination Within Three Years of Graduation

1. Sahra Shoemaker
2. Nathaniel White

A motion was made and seconded to approve all and allow six months to pass the examination.

Weisheit/Bonn
5/0/0
Motion carried

VI. GRANTING OR DENYING PETITION FOR REVIEW AND APPOINTMENT OF ADMINISTRATIVE LAW JUDGE

A. Joseph J. Willis

Re: Timely Petition for Review of Failed Barber Examination

B. Wesley B. Johnson

Re: Timely Petition for Review of Failed Barber Examination

C. Bonifacio Velez

Re: Timely Petition for Review of Denied Application for Provisional Barber License

D. Willie J. Hobbs

Re: Timely Petition for Review of Denied Application for Barber License by Reciprocity

E. Toshiba Thomas

Re: Timely Petition for Review of Denied Petition for Review of Failed Cosmetology Examination

A motion was made and seconded to grant the petitions for review.

Weisheit/Bonn
5/0/0
Motion carried

VII. COMMITTEE REPORTS

A. Application Committee

A motion was made and seconded to approve the application report as follows.

Weisheit/Bonn
5/0/0
Motion carried

COSMETOLOGY APPLICATIONS

A. By Examination:

Carter, Antonio Edward - Approved
Combs, Amanda Lane – Approved
Goodman, Christy Marie - Tabled
Hudson, Deidra Monique - Approved
Kenny-Bryant, Sheila - Denied
Vahle, Kelsey - Approved
Vonuhl, Michelle - Approved on PROBATION with no right to petition for withdrawal of probation until probation is successfully completed, follow statutes and rules

B. By Reciprocity:

Audette, Katelyn Ann - Approved
Dangerfield, Lisa Denean – Denied, the jurisdiction issuing the license doesn't impose substantially equal requirements on applicants for the license as are imposed on applicants for an Indiana license, IC 25-8-4-2(a)(2)
Hammes, Jackie Alice - Approved
Htat, May Thu – Denied, license not valid in another jurisdiction, IC 25-8-4-2(a)(1)
Huynh, Toan - Denied, the jurisdiction issuing the license doesn't impose substantially equal requirements on applicants for the license as are imposed on applicants for an Indiana license, IC 25-8-4-2(a)(2)
Khin, Cherry - Denied, license not valid in another jurisdiction, IC 25-8-4-2(a)(1)

C. By Provisional:

Khanna, Amita – Approved
Sanchez-Rodriguez, Frank Anthony - Approved
Villalobos, Silvia – Denied, incomplete application: no test scores or previous history

MANICURIST APPLICATIONS

A. By Examination:

Do, Van T.H. – Tabled, waiver not complete
Dobbs, Krishna T. – Approved on PROBATION with no right to petition for withdrawal of probation until probation is successfully completed, follow statutes and rules

B. By Reciprocity:

Nguyen, Mong-Tuyen T. – Denied, attended nail tech school instead of cosmetology school
Tran, Duc Minh - Approved

C. By Provisional:

Lu, Phong Quang - Approved

ESTHETICIAN APPLICATIONS

A. By Reciprocity:

Chalmers, Marianne Carmen – Denied, attended esthetician school instead of cosmetology school

COSMETOLOGY INSTRUCTOR APPLICATIONS

A. By Examination:

Miswicz, Amanda - Approved

BARBER APPLICATIONS

A. By Examination:

Brownlee, Jocquell - Approved

Cornett, James – Approved on PROBATION with no right to petition for withdrawal of probation until proof of court costs & fines successfully completed, follow statutes and rules

Dalton, Cornelius - Approved

Thomas, Leroy - Approved on PROBATION with no right to petition for withdrawal of probation until criminal sentence is successfully completed, follow statutes and rules

Stewart, Rogdrick - Approved

Wright, Hubert - Approved on PROBATION with no right to petition for withdrawal of probation until probation is successfully completed, follow statutes and rules

BARBER SHOP APPLICATIONS

Up top Barbershop, 3927 S. Calhoun, Ft. Wayne, IN 46806 – Approved on probation with no right to petition for withdrawal of probation for a period of 6 months and approved inspection

SALON APPLICATIONS

A. Cosmetology Salon

Alex Beauty Salon, 7490 S Madison Ave., Indianapolis, IN 46227, Denied, disapproved inspection report and unlicensed practice

Indianapolis Cosmedical Salon & Spa LLC, 129 E Market St, Ste 600, Indpls. 46204 – Denied, False/misleading name, IC 25-1-11-5(a)(1)B and IC 25-1-11-19(a)(1)(B)

B. Manicuring Salon

Diva Nails, 406 La Follette Station, Floyds Knobs, IN 47119, Approved on probation with no right to petition for withdrawal of probation for a period of 1 year and approved inspection

Spa Nails II, 415 W 81, Merrville, IN 46410 – Denied, disapproved inspection report

C. Esthetics Salon

Diamond Nail & Spa, 2505 Laporte Ave., Valparaiso, IN 46383 – Tabled, pending receipt of inspection

VIII. ADJOURNMENT

The meeting adjourned at 6:45 p.m.